

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 12 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

J. GUADALUPE BALTAZAR-HUERTA;
et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 03-72309

Agency Nos. A77-824-303
A77-824-304

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005^{**}

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

J. Guadalupe Baltazar-Huerta and Maria Melouiades Andres-Espinal,
natives and citizens of Mexico, petition for review of an order of the Board of
Immigration Appeals (“BIA”) which summarily affirmed an Immigration Judge’s

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

(“IJ”) denial of their applications for cancellation of removal, asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). We deny in part, and dismiss in part the petition for review.

We have jurisdiction under 8 U.S.C. § 1252 over petitioners’ withholding of removal claim. Reviewing for substantial evidence, *Kaur v. Ashcroft*, 379 F.3d 876, 884 (2004), we deny the claim because substantial evidence supports the IJ’s determination that petitioners did not demonstrate they are more likely than not to be persecuted in Mexico within the meaning of withholding of removal. *See Ramadan v. Gonzales*, 427 F.3d 1218, 1222-23 (9th Cir. 2005).

We lack jurisdiction to review the IJ’s determination that the petitioners are statutorily ineligible for asylum based on the one-year time bar. *See id.* at 1221-22.

We decline to consider petitioners’ cancellation of removal claim because they raised it for the first time in their reply brief. *See Cedano-Viera v. Ashcroft*, 324 F.3d 1062, 1066 (9th Cir. 2003).

Petitioners have failed to exhaust their claim for protection under CAT with the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

Finally, petitioners request review from this court’s June 24, 2004, order denying their motion for stay of voluntary departure. We lack jurisdiction to grant

the request because the voluntary departure period has expired. *See Garcia v. Ashcroft*, 368 F.3d 1157, 1159 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part, DISMISSED in part.